

United States District Court

for the
Western District of New York

United States of America

v.

Case No. 16-M-1014

JOSEPH LOMBARDO

Defendant

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

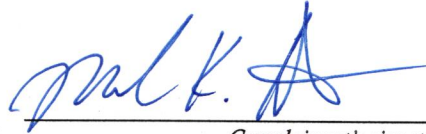
On or about the dates listed below, in the Western District of New York, the defendant, JOSEPH LOMBARDO, did:

- (1) In or about September of 2012, the exact date being unknown, knowingly use, persuade, induce, entice and coerce a minor, that is, Victim 3, to engage in sexually explicit conduct for the purpose of producing a visual depiction of such sexually explicit conduct, which visual depiction was produced using materials that had been mailed, shipped, and transported in and affecting interstate and foreign commerce by any means, including by computer;
- (2) In or about September of 2012, the exact dates being unknown, using any means and facility of interstate and foreign commerce, knowingly receive child pornography, as defined in Title 18, United States Code, Section 2256(8), which child pornography had been shipped and transported in and affecting interstate and foreign commerce by any means, including by computer; and
- (3) On or about May 9, 2014, knowingly possess material that contained images of child pornography, as defined in Title 18, United States Code, Section 2256(8), that had been mailed, shipped and transported in and affecting interstate and foreign commerce by any means, including by computer, and that were produced using materials that had been mailed, shipped and transported in and affecting interstate and foreign commerce by any means, including by computer;

all in violation of Title 18, United States Code, Sections 2251(a), 2252A(a)(2)(A), and 2252A(a)(5)(B).

This Criminal Complaint is based on these facts:

☒ Continued on the attached sheet.



Complainant's signature

Michael K Hockwater, Task Force Officer, FBI

Printed name and title

Sworn to before me and signed in my presence.

Date: February 5, 2016



Judge's signature

City and State: Buffalo, New York

HON. JEREMIAH J. MCCARTHY, USMJ

Printed name and title

AFFIDAVIT IN SUPPORT OF COMPLAINT

I, Michael Hockwater, being duly sworn, depose and state:

INTRODUCTION

1. I am a Police Detective with the Town of Cheektowaga, New York Police Department. I have been a Police Officer since August of 1989. I am currently assigned as a Task Force Officer with the Federal Bureau of Investigation (FBI), Buffalo Field Office, Cyber Task Force, Innocent Images National Initiative which targets individuals involved in the on line sexual exploitation of children. I have been a Task Force Officer since June 14, 2010. As part of these duties, I have become involved in the investigation of suspected violations of Title 18, United States Code, Sections 2251, 2252, 2252A, 2422, and 2423. I have received training in the area of child pornography and child exploitation, and have had the opportunity to observe and review numerous examples of child pornography in various forms of media including computer media.

2. I make this affidavit in support of a criminal complaint charging **JOSEPH LOMBARDO ("LOMBARDO")**, with violations of Title 18, United States Code, Sections 2251(a) [Production of Child Pornography], 2252A(a)(2)(A) [Receipt of Child Pornography], and 2252A(a)(5)(B) [Possession of Child Pornography].

3. The statements contained in this affidavit are based on my involvement in this investigation, as well as information provided to me by other law enforcement officers in this investigation, and upon my training and experience as a Task Force Officer of the

Buffalo FBI. Because this affidavit is being submitted for the limited purpose of seeking a criminal complaint, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts necessary to establish probable cause to believe that LOMBARDO knowingly violated Title 18, United States Code, Sections 2251(a), 2252A(a)(2), and 2252A(a)(5)(B).

VICTIM 1

4. On May 14, 2014, your affiant was contacted by Detective Keith Kerl with the Lancaster, New York Police Department, who reported that a 15-year-old minor female (hereinafter "Victim 1") had been coerced into having sexual contact and sending child pornography to an adult male later identified as LOMBARDO.

5. Victim 1 reported to the Lancaster Police that approximately 3 or 4 years ago while she was 12- or 13-years-old, she had been contacted by an unknown male identifying himself as "Chris Richardson" on a cell phone application known as Kik, which is a messaging application that allows users to communicate with other users and send photographs. "Chris Richardson" requested that Victim 1 send him naked pictures of herself and if she refused he would post the pictures he had of her on the internet to exploit her. Victim 1 sent "Chris Richardson" at least 50 pictures of herself naked. Victim 1 confided in another minor female whom she is friends with (hereinafter "Witness 1"). Witness 1 advised Victim 1 that "Chris Richardson" had also solicited her to send naked pictures of herself to him. Victim 1's cell phone was taken away from her by her mother

and was without a phone for approximately 1 year. During this time Victim 1 had moved away and did not have any contact with Witness 1.

6. Victim 1 obtained a new cell phone in April of 2014, and was again contacted on Kik by "Chris Richardson" who demanded that she send him more naked pictures of herself and if she refused he would post the pictures he had of her on the internet to exploit her further. "Chris Richardson" instructed Victim 1 to masturbate while taking the pictures. Victim 1 sent "Chris Richardson" approximately 100 additional photos of herself that would be considered child pornography. Victim 1 received a message containing a link to a Facebook account called "[Victim 1's name] the slut" from "Chris Richardson" who told her that all of her pictures were on that Facebook page. Victim 1 attempted to find the page but was unable to. Shortly thereafter, Victim 1 told Witness 1 of her continued extortion by "Chris Richardson". Witness 1 advised Victim 1 that she was familiar with a male identified as "Dan" who helped her to get "Chris Richardson" to stop demanding pictures from her.

7. Victim 1 was contacted by "Dan" on Kik who told her he knew "Chris Richardson" and that if she agreed to hang out with him, he would be able to convince "Chris Richardson" to stop soliciting her for more pictures. "Dan" did tell Victim 1 to do whatever "Chris Richardson" asked her to do in the meantime. Victim 1 agreed to this and chatted with "Dan" on a daily basis for several weeks on Kim. "Dan" requested Victim 1 to send him naked pictures of herself and she complied.

8. Victim 1 eventually met "Dan" in person in April of 2014, and over the next few weeks had sexual contact including intercourse with "Dan" several times. "Dan" picked Victim 1 up from school and from her neighborhood multiple times and drove her to his apartment located at 5303 Broadway Apt. 3, Lancaster, New York 14086. "Dan" convinced Victim 1 that if she continued to have a relationship and have sex with him, he would be able to get "Chris Richardson" to stop demanding pictures from her. "Dan" asked Victim 1 for her permission to record the two of them having sex and he would be able to put the video on the internet and make money for her. Victim 1 is unsure if she was videotaped however she noted that there were several computers in his bedroom. During their interactions, Victim 1 told "Dan" her actual age and that she was in 10th grade at the time. Victim 1 further stated that "Dan" dropped her off at her school on two occasions. Victim 1 soon realized that "Dan" was not helping her and reported the situation to the Lancaster Police.

9. On May 9, 2014, Lancaster Police Detective Keith Kerl showed Victim 1 a photo array consisting of 8 images including an image of LOMBARDO. Victim 1 identified LOMBARDO as the person who had sexual contact with her at 5303 Broadway Apt. 3, Lancaster, New York 14086 and that she knew as "Dan."

10. On May 9, 2014, the Lancaster Police Department executed a search warrant at LOMBARDO's residence located at 5303 Broadway Apt. 3, Lancaster, New York 14086 and recovered several items of evidence related to the investigation including a MacBook Pro laptop bearing serial number CO2H23HVDV14.

11. The MacBook Pro laptop was examined at the Western New York Regional Computer Forensic Lab (WNYRCFL). The MacBook Pro had a Toshiba 750GB hard drive bearing serial number Y1A9C200T installed in it. A label on this hard drive indicates that it was manufactured outside of New York State. The examination found several images of child pornography including pornographic images of V1. Two such images, which I believe constitute child pornography based on my training and experience, are described as follows:

File Name	Description
Carved[0][2523993].jpg	Victim 1 naked standing in her bedroom. The photo depicts her naked from her neck to her knees and is focused on her breasts and vagina.
Carved[298][3347562].jpg	Victim 1 standing naked in her bathroom with her left hand resting on her hip. The photo depicts her naked from her chest to her knees and is focused on her breasts and vagina.

VICTIM 2

12. The examination of the MacBook Pro computer discussed above also revealed images of a 13-year-old female (hereinafter "Victim 2"), who has been identified and interviewed. Victim 2 was residing in the Western District of New York at the time the images were taken. The images were sent by Victim 2 using her Verizon cellular telephone to an email address used by LOMBARDO. One such image, which I believe constitutes child pornography based on my training and experience, is described as follows:

File Name	Description
Picture0826122241_1.jpg	Victim 2 standing naked in her bathroom. The photo depicts her from her chest to her knees and is focused on her breasts and vagina.

The email used to transmit this image was also found on the hard drive of the MacBook Pro, and contained the following details:

Date: August 26, 2012 10:42 PM
From: [Victim 2's Phone Number]@vzwpix.com
To: destruction4090@gmail.com
Subject: There...Delete it now. Please.
Body of email: There...Delete it now. Please. []

Upon locating this email, your affiant conducted an open source search for the phone number that was listed in this email, which identified the Facebook account for Victim 2.

13. On May 5, 2015, I interviewed Victim 2 who stated that she had met a male on meetme.com in 2012 who identified himself to her as "Chris Richardson." The website meetme.com is also a social networking service. Victim 2 engaged in a texting conversation with "Chris Richardson" and told him she was 13-years-old, and he stated that he was 18. "Chris Richardson" told Victim 2 that he had a cousin named "Ross" who lived near her and suggested that she start talking to him. Victim 2 entered into a texting conversation with "Ross" telling him she was 13, while he told her that he was 19. "Ross" immediately asked for pictures of Victim 2. Victim 2 did send "Ross" pictures of herself in a bikini. "Ross" eventually demanded that she send him naked pictures or he would embarrass her and tell her friends bad things about her if she refused. Victim 2 did eventually send "Ross" a few naked pictures of herself. As soon as she complied, she was contacted by "Chris Richardson" who told her that he also had the naked pictures of her and if she refused to send him more, he would post them on Facebook. "Chris Richardson" sent Victim 2 one of the naked pictures back to her that she had sent to "Ross." At that point, Victim 2 ceased

all communications and notified her mother. Victim 2 was shown the aforementioned identified image and identified it as being herself.

VICTIM 3

14. The examination of the MacBook Pro computer discussed above also revealed images of a 16-year-old female (hereinafter "Victim 3"), who has been identified and interviewed. Victim 3 was residing in the Western District of New York at the time the images were taken. The images were sent by Victim 3 using her Verizon cellular telephone to an email address used by LOMBARDO. One such image, which I believe constitutes child pornography based on my training and experience, is described as follows:

File Name	Description
2012-09-14_17.33.17.jpg	Victim 3 standing naked in her bathroom. The photo depicts her from her chest to her knees with her finger touching her vagina.

The email used to transmit this image was also found on the hard drive of the MacBook Pro, and contained the following details:

Date: September 15, 2012 12:04 AM
From: [Victim 3's Phone Number]@vzwpix.com
To: destruction4090@gmail.com
Subject: no subject
Body of email: Will this make up for it? (:

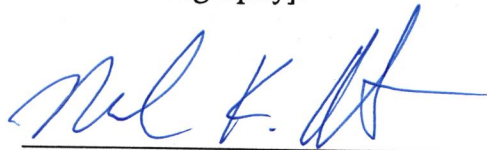
Upon locating this email, your affiant conducted an open source search for the phone number that was listed in this email, which assisted in identifying Victim 3.

15. On December 2, 2015, I interviewed Victim 3 who stated that she had met an unnamed male on meetme.com in 2012 who suggested that she contact his brother, LOMBARDO on meetme.com. Victim 3 contacted LOMBARDO on meetme.com at this

time, and told him that she was 15- or 16-years-old at the time. LOMBARDO told Victim 3 that he was 21- or 22-years-old. Victim 3 dated LOMBARDO for approximately 10 months, and LOMBARDO took Victim 3 to his residence on Broadway in Lancaster and had sexual intercourse with her 5 or 6 times. LOMBARDO asked Victim 3 to send him naked pictures of herself and she sent him at least 30 or 40. Victim 3 recalled performing oral sex on LOMBARDO at his residence while LOMBARDO recorded the act with a cell phone. LOMBARDO told Victim 3 that he could not be seen in public with her because he would get in trouble because of her age. Victim 3 was shown the aforementioned identified image and identified it as being herself.

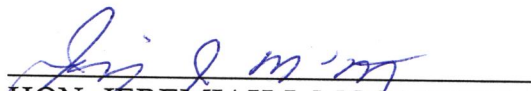
CONCLUSION

16. Based upon the foregoing, I respectfully submit that I have probable cause to believe that **JOSEPH LOMBARDO**, has violated Title 18, United States Code, Sections 2251(a) [Production of Child Pornography], 2252A(a)(2)(A) [Receipt of Child Pornography], and 2252A(a)(5)(B) [Possession of Child Pornography].



Michael K Hockwater, Task Force Officer
Federal Bureau of Investigation

Sworn to before me this 5th day of
February, 2016



HON. JEREMIAH J. MCCARTHY
United States Magistrate Judge